

Attorneys for Plaintiffs

NAOMI BEAURMAN-WHITE, etc. et al.) No. C08-230-MHP
)
Plaintiffs,)
)
vs.) MOTION TO STAY
) [PROPOSED] ORDER
GENERAL ELECTRIC COMPANY, et)
al.,)
Defendants.)

**MOTION TO STAY PROCEEDING;
[PROPOSED] ORDER TO STAY**

On March 18, 2008, upon reassignment of the case from the Honorable Elizabeth D. Laporte to the Honorable Marilyn Hall Patel, the Court issued its *Clerk's Notice (Scheduling Case Management Conference in Reassigned Case)*, Document 14, setting a Case Management

1 Conference for April 21, 2008.

2 Since the filing of the Clerk's Notice on March 18, 2008, the Judicial Panel on
3 Multidistrict Litigation ("JPML"), pursuant to 28 U.S.C. § 1407, and the July 29, 1991 Order of
4 the JPML found at 771 F.Supp.415 (JPML 1991), issued its Conditional Transfer Order (CTO-
5 304), a copy of which is attached to this Motion for reference. The "Condition" in this Transfer
6 Order is to allow 15 days from the entry of the Order to allow any party to file a notice of
7 opposition to the transfer. Plaintiffs do not oppose transfer, nor presumably Defendant
8 GENERAL ELECTRIC COMPANY, who initiated the transfer process. Upon filing with the
9 Clerk of the Eastern District of Pennsylvania, the transfer of this case to Judge Giles' Jurisdiction
10 will be in effect.

11 On February 19, 2008, Defendant GENERAL ELECTRIC COMPANY filed a Notice to
12 Tag Along Action seeking to move Jurisdiction into the Asbestos MDL in Pennsylvania. The
13 attached CTO-304 was issued pursuant to that Notice.

14 On July 29, 1991, the JPML entered an order transferring all asbestos personal injury
15 cases pending in the federal courts to the United States District Court for the Eastern District of
16 Pennsylvania, for coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407. That order also
17 applies to "tag-along actions," or actions involving common questions of fact filed after January
18 17, 1991. Such actions are to be transferred to the eastern District of Pennsylvania as part of
19 MDL 875, for coordinated pretrial proceedings.

20 The JPML has held that a district court has the authority to stay pending a transfer order.
21 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
22 ("[T]hose courts concluding that such issues should be addressed by the transferee judge need
23 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
24 unnecessary interruption or delay.")

25 Both Plaintiffs and Defendant GENERAL ELECTRIC COMPANY, as expressed in
26 their stipulation filed February 26, 2008, agree that it is likely that the JPML will transfer this
27 matter to the Eastern District of Pennsylvania. Plaintiffs assert, based on prior experience, that
28 transfer is an inevitability - every similar action filed by counsel has been transferred in like

1 manner. It is therefore likely the Case Management deadlines set by the *Clerk's Notice*
 2 (*Scheduling Case Management Conference in Reassigned Case*) of March 18, 2008 (Document
 3 14), especially the April 11, 2008 deadline for the Joint Case Management Statement, will come
 4 to pass before the transfer is complete, and before notice is mailed by the Eastern District of
 5 Pennsylvania to the Northern District of California that they have received the JPML's Order.

6 In addition, Defendant ELECTRIC BOAT CORPORATION has not filed an answer.
 7 Plaintiffs are attempting to personally serve the agent for Defendant ELECTRIC BOAT
 8 CORPORATION because of their lack of response to service made earlier by Certified Mail.

9 Plaintiff makes this Motion on the grounds that a stay of this action would (a) promote
 10 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
 11 parties.

12 Due to the pending action by the Clerk of the JPML, Plaintiffs respectfully request the
 13 Court VACATE its *Clerk's Notice (Scheduling Case Management Conference in Reassigned*
 14 *Case*) of March 18, 2008 (Document 14) and that the Court issue an Order STAYING this action
 15 pending the transfer to the Honorable James T. Giles.

16 Dated: March 31, 2008

BRAYTON♦PURCELL LLP

/s/ David R. Donadio

18 By: _____
 19 David R. Donadio
 Attorneys for Plaintiffs

20 [PROPOSED] **ORDER TO STAY**

21 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Clerk's*
 22 *Notice (Scheduling Case Management Conference in Reassigned Case)* of March 18, 2008
 23 (Document 14), are hereby VACATED and that this action is STAYED pending transfer to the
 24 Asbestos MDL in the U.S. District Court for the Eastern District of Pennsylvania.

25
 26 Dated: _____

27 _____
 28 Marilyn Hall Patel
 United States District Judge

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

MAR 20 2008

FILED
CLERK'S OFFICE

IN RE: ASBESTOS PRODUCTS LIABILITY
LITIGATION (NO. VI)

MDL No. 875

(SEE ATTACHED SCHEDULE)

CONDITIONAL TRANSFER ORDER (CTO-304)

On July 29, 1991, the Panel transferred 21,937 civil actions to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 771 F.Supp. 415 (J.P.M.L. 1991). Since that time, 82,800 additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable James T. Giles.

It appears that the actions on this conditional transfer order involve questions of fact that are common to the actions previously transferred to the Eastern District of Pennsylvania and assigned to Judge Giles.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Eastern District of Pennsylvania for the reasons stated in the order of July 29, 1991, and, with the consent of that court, assigned to the Honorable James T. Giles.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania. The transmittal of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:


Jeffrey M. Lüthi
Clerk of the Panel

**IN RE: ASBESTOS PRODUCTS LIABILITY
LITIGATION (NO. VI)**

MDL No. 875

SCHEDULE CTO-304 - TAG-ALONG ACTIONS

DIST. DIV. C.A. #

CASE CAPTION

ALABAMA MIDDLE

ALM 2 08-46

Daniel R. Brown, et al. v. Albany International, et al.

CALIFORNIA CENTRAL

CAC 2 08-118

Robert Oberstar, et al. v. CBS Corp., et al.

CAC 2 08-282

Ted Munn, et al. v. CLA-VAL Co., et al.

CAC 2 08-712

David Kelemen, et al. v. Buffalo Pumps, Inc., et al.

CAC 2 08-873

Larry Lindquist, et al. v. Alfa Laval, Inc., et al.

CAC 2 08-1123

John H. Prince v. CBS Corp., et al.

CAC 2 08-1296

Robert Reaser, et al. v. Allis-Chalmers Corp. Product Liability Trust, et al.

CALIFORNIA NORTHERN

CAN 3 08-228

John L. Davis, et al. v. General Electric Co., et al.

CAN 3 08-229

Betty Rabener, etc. v. General Electric Co., et al.

CAN 3 08-230

Naomi Beauman-White, et al. v. General Electric Co., et al.

GEORGIA MIDDLE

GAM 5 08-53

Jake Bradshaw v. Aventis CropScience USA, Inc., et al.

LOUISIANA MIDDLE

LAM 3 08-43

Michael T. Hackler v. P&O Ports Louisiana, Inc., et al.

LAM 3 08-81

George Landess v. Baton Rouge Marine Contractors, Inc., et al.

NORTH CAROLINA EASTERN

NCE 2 07-63

Tom Wallace, et al. v. A.W. Chesterton Co., et al.

NCE 4 08-2

Dolcy Lee Hicks, et al. v. Aqua-Chem, Inc., et al.

NCE 7 07-188

Patricia A. Holt, et al. v. The Anchor Packing Co., et al.

NCE 7 07-191

Mary E. Flowers v. The Anchor Packing Co., et al.

NCE 7 07-197

Lynn Reynolds Smythe, et al. v. The Anchor Packing Co., et al.

NORTH CAROLINA MIDDLE

NCM 1 04-1166

Sallie Mae Hines, etc. v. Anchor Packing Co., et al.

NCM 1 08-120

Larry D. Clark, et al. v. American Investors, LLC, et al.

NCM 1 08-146

Harold D. Pritchard, et al. v. A.W. Chesterton Co., et al.